[NUMB. 2033.]

South-Carolina

PRO PATRIA, PRO

MONDAY,

THE

GAZETTE.

LEGE, PRO REGE.

MARCH 6, 1775.

Charles-Town: Printed by PETER TIMOTHY, Printer to the Honourable the Commons House of Assembly,

At his OFFICE, removed from the BAY into BROAD-STREET, the Corner of GADSDEN's ALLEY; a few Doors above the Exchange: *Where Advertisements for this Gazette, Letters of Intelligence, &c. will be received, and all Kinds of Printing Work done with Accuracy and all possible Dispatch; and where he will soon have for Sale, a* SUPPLY *of all the different Kinds of* BLANKS *used in this Colony.*

In GENERAL COMMITTEE,

CHARLES-TOWN, SOUTH-CAROLINA.

FEBRUARY 8th, 1775.

INASMUCH as the Colony of GEORGIA hath not acceded to the Continental Association, entered into by the General Congress at Philadelphia on the 24th of October last: Therefore, and in Conformity to the Resolutions of the said General Congress,

Resolved, That we will, from henceforth, have no Trade, Commerce, Dealings or Intercourse with the said Colony of Georgia; but will hold them as unworthy of the Rights of Freemen, and as inimical to the Liberties of their Country. PROVIDED, That this Resolution shall not be construed to extend, to the Inhabitants of this Colony now having Plantations in Georgia, so as to prevent them from bringing their Crops into this Colony; or to such Persons, Residents in this Colony, as now have Debts due to them in Georgia, so as to prevent them from receiving Payment of such Debts there, in Money, or in the Commodities of that Colony, they having such Commodities shipped from thence to Europe.

Ordered, That Copies of the above Resolution be transmitted to all the Northern Colonies.

FEBRUARY 16, 1775.

Resolved, That Persons residing in this Colony, who hold Plantations in Georgia, may, under the Inspection of the Committee of Observation, send Necessaries from hence for the Use of those Plantations, without the same being deemed a Violation of the Resolution of this Committee of the 8th Instant, respecting the Colony of Georgia.

FEBRUARY 24th, 1775.

A Letter, and sundry other Papers, from the Parish of St. John in Georgia [*See our last Gazette*] was read, and maturely considered: But the Committee, being determined, in all Cases, to adhere literally, as far as possible, to every Article of the Continental Association, could do no more, in the present, than enter into the following Resolution, viz.

Resolved, That the Chairman be desired to write a proper Letter to the Committee of the Parish of St. John in Georgia, assuring them of the high Sense we have of their arduous Struggles in Favour of the Common Cause of America, and that we sincerely lament their present unhappy Situation: But that, as the said Parish, *being a Part of the* COLONY *of Georgia*, in our Opinion, falls under the 14th Article of the General Association, so we apprehend, that it is not in our Power to give them the Relief they desire; and we can only recommend, that they will persevere in their laudable Exertions, and lay a State of their Case before the ensuing Continental Congress, making no Doubt, that it will, by them, be properly considered.

Ordered, That the Secretary do furnish the Deputies from St. John's, with Copies of all the Proceedings of this Committee, relative to the Colony of Georgia.

MARCH 1st, 1775.

Ordered, That the Resolutions of this Committee, relative to the Colony of Georgia, and the Inhabitants of St. John's Parish in the said Colony, be forthwith published in the SOUTH-CAROLINA GAZETTE.

By Order of the General Committee,

PETER TIMOTHY, *Secretary*.

New Advertisements.

A MEETING of the SOCIETY, for the Relief of the Widows and Orphans of the Church of *England*, will be holden on Monday the 27th Day of *March*, at the House of the late Mrs. *Katharine Poinsett*, in Elliott-Street.

The Members are desired to attend precisely at 6 o'Clock.

The SUBSCRIBER,

Having engaged in the PAINTING-BUSINESS, *will* DISPOSE of, *at* private Sale,

(A GREAT BARGAIN)

THE following VALUABLE LOTS of LAND; together with the BUILDINGS, &c. thereunto belonging, *viz.*

One Corner LOT, fronting *Old Church* and *Elliott-streets*; having thereon a good Brick Building, of two Stories, with a Cellar, Kitchen, &c.—Now rented by Messrs. PARKER & HUTCHINGS, at £. 450 per Annum.

One other LOT, adjoining the above on the North, and on Lands of THOMAS BEE, Esq; on the South; consisting of two Brick Tenements:—One now possessed by Mr. CROWTHER, at £. 170; and the other by Mr. STENT, at £. 180 per Annum.

The above Lots and Tenements being so well known, renders it unnecessary to acquaint the Public how advantageous their Situation are, in Point of TRADE.

Good FIELD SLAVES will be taken in Exchange, to the Amount of Two-thirds of the Value, upon equitable Terms:—Or, one Year's Credit will be given, the Purchaser paying Interest, and giving approved Security.

6th. THOMAS HALL, jun.

TO THE FREEHOLDERS OF SOUTH-CAROLINA.

FELLOW CITIZENS!

WHEN a Person is removed by the Royal Prerogative from a conspicuous Station in Society; Mankind in general, are apt to regard it, as a Censure upon the Person, and to imagine, it was the just Consequence of the Criminality of his Conduct.—It is this Reflection which induces me to lay the following Proceedings before you, lest my having been suspended from being a Member of His Majesty's Council, should cause it to be imputed to a Conduct in me, inconsistent with that which ought to be pursued by a Man of Integrity, zealous for the Liberties of his Country.

In the UPPER HOUSE *of* ASSEMBLY.

SATURDAY, the 11th Day of *February* 1775.

The Humble ADDRESS of this House to His Honour the *Lieutenant Governor*.

SOUTH-CAROLINA.

To the Honourable WILLIAM BULL, *Esq; Lieutenant-Governor and Commander in Chief, in and over His Majesty's said Province.*

MAY IT PLEASE YOUR HONOUR,

HIS Majesty's dutiful and faithful Subjects, *the Council* of this Province met in General Assembly, with Reluctance approach your Honour on a Subject of so disagreeable a Nature, as a Complaint against one of their Members, the Hon. William-Henry Drayton, Esquire.

Although the general Tenor of Mr. Drayton's Conduct for a *considerable* Time past, would not only have justified, but seemed to call for a Representation from this House, to your Honour; yet, anxious to avoid every Measure which might appear to have a Tendency to infringe upon the Rights of an Individual, or the Privileges of a Member, we have hitherto delayed to lay before your Honour our just Causes of Complaint, and have submitted to many Insults and Indignities offered to individual Members, as well as outrageous Breaches of Privilege committed against this House.

But as we are now thoroughly convinced that Mr. Drayton's Conduct has been, and still continues to be, influenced by a determined Purpose, as far as in him lies, not only to destroy all Confidence of the People in this House, and to bring it into Contempt, but to subvert the Constitution and unhinge Government, to be longer silent would be criminal; and we conceive ourselves bound, both by Principles of Duty and Affection to his Majesty, and Justice to ourselves, humbly to request your Honour will be pleased to suspend the Honourable William-Henry Drayton, Esq; from being a Member of his Majesty's Council in this Province.

In the Upper House of Assembly, the 11th Day of February, 1775.

By Order of the House,

JOHN STUART.

His Honour the LIEUTENANT-GOVERNOR's *Answer*:

Honourable Gentlemen,

BEFORE I take any Step in Consequence of this Address, I desire you to lay before me some of the Facts upon which your Complaint against Mr. William-Henry Drayton is founded; and upon due Examination thereof, and of his Answer, I shall take such Measures as are agreeable to Justice, and for the Service of his Majesty.

Feb. 13, 1775. WILLIAM BULL.

A true Extract from the Journals.

JAMES SIMPSON.

In the UPPER HOUSE of ASSEMBLY.

WEDNESDAY, the 22d Day of *February* 1775.

THE COMMITTEE, to whose Consideration the ANSWER of His Honour the Lieutenant-Governor, to the ADDRESS of this House, dated the 11th Instant, was referred,

REPORT,

THAT your Committee recommend to the House, to lay before His Honour the Lieutenant-Governor, the following Instances of Mr. Drayton's Conduct; which, amongst many others, in the Opinion of the House, have evinced his Intentions—as far as in him lay, to destroy all Confidence of the People in this House, and to bring it into Contempt.

That, Mr. Drayton, by entering captious and frivolous Protests, against the Proceedings of the House, and therein misstating the Arguments used by the Members of the House; and, suggesting as Reasons, for the Foundation of the Determinations of the House, Matters which, tho' perhaps, taken Notice of in the Debate, have had no Influence upon the Question, and afterwards causing the same to be printed in the Public News-Papers, without the Leave of the House, has thereby been undustriously endeavouring, to destroy all Confidence of the People in this House, and to bring it into Contempt.

That Mr. Drayton's Enmity and Ill-will to a particular Member of this House, has frequently prompted him to throw out very illiberal Charges and Invectives against that Member, entirely out of the Course of Order, and in manifest Violation of those Rules of Decency and Moderation, which are essentially necessary to be observed by all deliberative Assemblies:—And that, by retailing without Doors, what upon these Occasions, has passed in the House, he has endeavoured to bring the House into Contempt.

That Mr. Drayton, not only without Doors, but in the Face of the House, has declared, that this House is no Branch of the Legislature; grounding his extraordinary Assertion, on his extraordinary Reason, because His Majesty hath not hitherto been pleased to give any Answer to the Address of this House, dated 11th September, 1773, or to a Petition presented to him at the Desire of the Commons House of Assembly, by Charles Garth, Esq. Agent for this Province, complaining of the Conduct of some of the Members of this House, for Acts done in their legislative Capacity, altho' your Committee are well assured that His Majesty's Ministers have informed Mr. Garth, that he would not be permitted to be heard upon such Parts of the said Petition as tended to call in Question the legislative Authority of this House; and altho' Mr. Drayton, about eleven Months ago, was very instrumental in procuring a Resolution of the House, that the said Petition was absurd, false, unparliamentary and unconstitutional, and was a scandalous Libel upon the Upper-House of Assembly of this Province, tending to destroy the ancient Constitution of this Government, and that the said Mr. Garth, by presenting the said Petition, had been guilty of a Breach of the Privileges of this House, and had done what in him lay to overthrow one of the Branches of the Legislature of this Colony, and betrayed the Trust reposed in him by the General Assembly.

That Mr. Drayton, in the Face of the House, avowed himself to be the Author of a Pamphlet published here, entituled "A Letter from Freeman, of South-Carolina, to the Deputies of North-America, assembled in the High Court of Congress at Philadelphia," which Pamphlet, your Committee have annexed to their Report, and recommend that it be laid before the Lieutenant-Governor, and submitted to His Honour's Consideration, whether the Author thereof is a proper Person to be longer continued a Member of His Majesty's Council in this Province.

Your Committee are persuaded, from the Knowledge they have of His Honour the Lieutenant-Governor's tender Regard for the Privileges of this House, that he does not expect the House should lay before him any of those Breaches of Privileges mentioned in the Address, as they are Subjects of which the House alone is competent to judge.

Nor can your Committee recommend to the House to lay before his Honour, unless he should more particularly desire it, any other Facts which induced the House to charge Mr. Drayton with endeavouring to unhinge the Government and subvert the Constitution, because they are Facts of so serious and important a Nature, that your Committee are of Opinion any Discussion or Examination of them, except in a formal judicial Manner, would be very improper; and that it is less necessary, because they are Facts of such Public Notoriety, that your Committee apprehend they cannot be unknown to any intelligent Person in Charles-Town.

The House was moved to agree with the Report of the Committee, and the Question being put, the same was carried in the Affirmative. And it was resolved, That this House do agree to the Report of the Committee.

DISSENTIENT.

BECAUSE, without particularizing the many objections to which the Report, in our opinion, is justly liable, it being Unparliamentary in almost every line; confining ourselves to state only two objections, we deem these to be of such a nature, as, even with them alone, to justify our disagreeing with the Report.—In the fourth section, there is a culpableness stated to be in the assertion, "that this House is no branch of the Legislature," because "His Majesty hath not hitherto been pleased to give *any* answer to the Address of this House, dated eleventh of September, 1773." Now, as we know this Address did most respectfully and earnestly complain to His Majesty of, what this House deemed, a most dangerous adjudication, that this House was no Upper House of Assembly and branch of the Legislature; and, a most dangerous violation of their privilege, by the discharge of a person committed by their warrant for a contempt: so, we cannot see any impropriety in the assertion grounded upon such a reason: for we naturally conclude, His Majesty's silence is out of tenderness to this House, unwilling to refuse *ittidem verbis*, what he does not think proper to grant; thereby plainly indicating His Royal sense of the Address, in effect tacitly telling us *Le Roy s'avisera*: the mild mode in which a British Sovereign refuses those Parliamentary applications, which in His Royal Wisdom, he deems improper. For, had his Majesty, counselled by his learned Judges, thought this House an Upper House of Assembly and a branch of the Legislature; we assure ourselves, a Sovereign, as he is, of a "Resolution to withstand *every attempt* to *weaken* the supreme *authority* of this legislature," meaning of Great-Britain; (a sentiment expressed in the King's late Speech in Parliament) would, in the course of sixteen months, not only have displayed his design "to withstand *every attempt* to weaken

ers" the *legal* "*authority* of this legislature" EQUALLY THE OBJECT OF HIS ROYAL CARE; but would have taken such constitutional measures, as might have tended to preserve to this House, their just rights; and to secure them from being exposed to a repetition, of that breach of their privilege, of which they did most humbly complain; and against which, they did most earnestly desire His Majesty's support.

2. BECAUSE, we are so far from thinking, the Author of the "Letter from Freemen of South-Carolina to the Deputies of North-America," ought to be deemed unworthy of being continued a Member of this House; that on the contrary, we are most firmly of opinion, his dismission must be considered as a most arbitrary proceeding—a violation of the constitutional rights of the People; and that A SEAT IN THIS HOUSE, UPON A TENURE OF SO ARBITRARY A NATURE, CANNOT BE WORTHY THE ATTENTION OF AN INDEPENDENT AMERICAN.

JOHN DRAYTON.
WILLIAM-HENRY DRAYTON.
BARNARD ELLIOTT.

Resolved, That a Message be sent to His Honour the Lieutenant-Governor, with the Report, and to inform His Honour, that the House had agreed thereto.

The Message was then read, and is as follows,

May it please your Honour,

WE herewith send to your Honour a Report from the Committee, to whose Consideration your Honour's Answer to the Address of this House, dated the 12th Instant was referred, as agreed to by the House.

JOHN DRAYTON,
A true Extract from the Journals.
JAMES SIMPSON.

To the Honourable WILLIAM BULL, *Esq; Lieutenant-Governor and Commander in Chief, in and over His Majesty's Colony of* SOUTH-CAROLINA.

The humble Representation of *William-Henry Drayton*, Esq; a Member of His Majesty's Honourable COUNCIL.

May it please Your Honour!

IN Obedience to your Commands, the Clerk of the Council has furnished me with Copies, of an Address to Your Honour from the Upper House of Assembly dated the eleventh Instant—of Your Honour's Answer to that Address dated the thirteenth Instant—of a Message from the Upper-House of Assembly dated the twenty-second Instant; and of a Report agreed to by that House, and transmitted to Your Honour with that Message: all which Copies are hereunto annexed, together with other Proceedings in the Upper House of Assembly on the said twenty-second Instant; which at my Desire, have been delivered to me by the Clerk, in Order that at one View I might compactly lay before your Honour such Materials as I judged were necessary; and to the same End, I have annexed some Extracts from the Records of the Court of Common-Pleas.—The Clerk likewise signified to me, your Honour's Pleasure relative to the Papers, which by your Order he presented to me; and as a first Step to a ready and respectful Compliance, I beg Leave to lay before you this Representation.

That whereas the Address charging me with having offered "many Insults and Indignities to individual Members"——with "outrageous Breaches of Privilege committed against" the "House"—and with "a determined Purpose" "not only to destroy all Confidence of the People in" the "House, and to bring it into Contempt, but *to subvert* the Constitution *and unhinge* Government;" and therefore requesting "Your Honour will be pleased to suspend" me "from being a Member of His Majesty's Council;" You was pleased, in your Answer to require, that "some of the Facts upon which" this "Complaint is founded," should be laid before you.

That in the Report sent to your Honour in Consequence of this just Requisition, I have discovered only four Points, which I conceive are intended as a State of "some of the Facts upon which" the "Complaint is founded."

The first is touching my Protests in the Upper House of Assembly.

The second contains an Assertion of my "Enmity and Ill-Will to a particular Member;" and a State of my Conduct to him in that House.

The Third sets forth, that "in the Face of the House," I have declared the "House is no Branch of the Legislature," upon a Principle therein specified.

The fourth declares, that "in the Face of the House" I "avowed" myself "to be the Author of a Pamphlet published here, entituled a Letter from Freeman of South-Carolina to the Deputies of North-America."

That thus it appears, the "COMPLAINT IS FOUNDED" *upon Proceedings and Speeches stated to have been transacted and delivered by me in the Upper House of Assembly*; and hence, I am under the Necessity of beginning my Defence, by submitting the following Question to your Honour.

When the Representatives of the People (according to Act of Assembly) are convened in the Commons House; do His Majesty's Council, sitting in the Council-Chamber, of themselves form an Upper House of Assembly and a Branch of the Legislature?

Many Reasons Sir, induce me, most respectfully to ask this important Question——I most humbly lay the following before your Honour.

1. Because my Defence *unavoidably turns* upon that Question.

2. Because as that Question has ever been a Point of Dispute, and in the Year 1773 received two contrary Determinations in Law; so it is necessary your Honour should settle the Question, upon which the Dispute before your Honour does absolutely depend.

If on the one Hand the Court of Common Pleas have adjudged His Majesty's Council to be an Upper House of Assembly—on the other Hand a competent Tribunal did, on the third of September, 1773, adjudge that they are not an Upper House of Assembly—the King *although* fifteen Months ago most earnestly applied to on this important Point by the Council themselves, *has not declared* them to be an Upper House of Assembly—neither have his Governors at any Time given them that Denomination. Thus, there is one express Adjudication, and two strongly implied Opinions of high Authority, besides the Voice of the People, against the Claim of the Council, supported only by one Adjudication.

Indeed although the Council stile themselves an Upper-House of Assembly, yet, in the present Case, their Conduct demonstrates that they are conscious they are not an Upper-House: *for they complain to your Honour of my Conduct in Assembly!*—a Measure unprecedented in parliamentary History; a Contradiction in Terms—If they are an Upper-House, it ought to be expected that they, guided by the *Law Knowledge of two Judges sent from England*, ought at least to know, that your Honour cannot constitutionally call me to account for, or take Notice of my Conduct in Assembly: and, if they are conscious that they are not an Upper-House, as seems to be most strongly implied by their having Recourse to you, Sir, to inflict Punishment in Consequence of their State of my Conduct in Assembly; why do they vainly stile themselves "the Upper-House of Assembly," and declare that parliamentary Offences, "are Subjects of which the House alone is competent to judge!"

Hence it is most evident, that his Majesty's Council have, in this Instance, after mature Deliberation precipitated themselves into a ludicrous Situation, the more disagreeable, because whether they are an Upper-House, or only a Privy Council, their Conduct equally militates against their Claim to be either the one or the other. In short, I have no Doubt but that, by their own Contrivances, they will, if it is yet to do, effectually destroy all Confidence of the People in "the House,"—a People ready to join in the *Chorus* of the Report—"*and bring it into Contempt.*"

It is now obvious may it please your Honour, that the Question I have stated *arises from the Necessity of the Case*. I now proceed to lay before you the Consequences of your Determination upon that Question.

If your Honour shall determine, that the Council are an Upper-House of Assembly and a Branch of the Legislature; then, I must not only observe to your Honour, *and I do it with the most profound Respect*, that his Majesty's Governor cannot constitutionally call upon me, to question my Speech, Debates, and Proceedings in Assembly, because it is contrary to the known Privilege of Assembly, established by the Act passed the 12th Day of December 1713, making of Force the following Clause of the Statute 1 William and Mary. Stat. 2. ch. 2.—"*that the Freedom of Speech, and Debates, and Proceedings* IN PARLIAMENT ought not to be impeached, or questioned, in any Court or Place OUT OF PARLIAMENT:" but, that I must observe, to the End that it may be noticed to the King's Minister, that Mr. Chief-Justice Gordon and Mr. Justice Gregory, the one by moving, the other by assisting, TO IMPEACH me out of Assembly and before your Honour, for my Conduct, Speech, Debates and Proceedings charged as in Assembly, deceived those Lay Members of Council who joined with them in that Measure *depending* on their Knowledge in Law; and thereby induced those Members to concur with them *in adoring Violation of an express Law of this Land* securing the Freedom and Liberties of the Subject. I must also remark to your Honour, that on the Authority of *that Act of* 1712, the Court of Common Pleas on the sixteenth of October 1773, did make a Rule absolute, by which Sir Egerton Leigh, Bart. was protected against the Suit of Thomas Powell, for a Proceeding against the said Powell, sworn by Sir Egerton to have been by him done in the Upper House of Assembly: and thereby among the other Judges, THIS VERY CHIEF JUSTICE did solemnly adjudge his Majesty's Council to be an Upper House of Assembly, and that Proceedings IN *the Upper House of Assembly* OUGHT NOT TO BE IMPEACHED *or questioned* OUT *of the said House*. Notwithstanding which Adjudication led my himself, he has now caused me to be IMPEACHED and questioned out of Assembly for my Conduct in Assembly; and thus to gratify his "*Enmity and Ill-Will to a particular Member of*" *the* "*House*," he makes no Scruple, in the Face of a whole People, TO OVERTHROW EVEN HIS OWN DECISION, and to trample upon the Law of the Land.—How long Sir, is SO IMPROPER A MAN to preside in our Courts of Justice!—I trust his Majesty's Ministers will not shut their Ears to the just Complaint of a Subject.

Your Honour will be pleased to receive the annexed Extracts specified by the Letter (A) as Evidence in Support of my State of the Adjudication of the 16th of October.

(A) *In the* COURT *of* COMMON-PLEAS, *Oct* 12, 1773.

THOMAS POWELL *against* *Hon. Sir* EGERTON LEIGH, *Baronet.* } *On Motion of Mr.* Edward Rutledge, *Attorney for the Plaintiff*, Ordered, *That he have Leave to file a Bill against the Defendant, one of the Attornies of this Court.*

In the COURT *of* COMMON-PLEAS, *October* 13*th*, 1773.

SIR EGERTON LEIGH, Baronet, being duly sworn, maketh Oath, that a certain Bill filed in this Court the twelfth Instant, by EDWARD RUTLEDGE, Esq; one of the Attornies of this Court against the Deponent, at the Instance of THOMAS POWELL, Printer, on a pretended Charge for Assault and false Imprisonment of the Person of the said T. POWELL, relates to a Warrant of Commitment, signed by the Deponent, as President of *His Majesty's Council*, by Order of the Upper House of Assembly of this Province, during the last Sitting of both Houses, for a Contempt and Breach of Privilege committed by the said THOMAS POWELL against the said Upper House, as a Branch of the Legislature of this Country; and this Deponent further maketh Oath and saith, that he never had any other Concerns with the said T. POWELL, than as above stated, except that he owes him for nearly twelve Months Gazettes, and an Article of Printing for his Office of Attorney-General, which he is ready to pay upon Demand, and this Deponent doth positively aver and depose, that the said T. POWELL has no Cause of Suit, Bill or Action against him, civil or criminal, than as above particularly stated and set forth.

(A)

EGERTON LEIGH.

Sworn in open Court, this 13th Day of Oct. 1773.
THO. KNOX GORDON.

(A) THOMAS POWELL *against* *Sir* EGERTON LEIGH, Bart. } *On Motion of Mr.* Simpson, *Attorney for the Defendant, and upon the Merits of the Defendant's Affidavit*, Ordered, *That the Plaintiff do shew Cause on Saturday next, why the Proceedings in this Action should not be stayed.*

In the COURT *of* COMMON-PLEAS, *October* 16*th*, 1773.

THOMAS POWELL *against* *Sir* EGERTON LEIGH, } *Mr.* Edward Rutledge *on behalf of the Plaintiff, proceeded to shew Cause agreeable to the Rule made for that Purpose why all Proceedings in this Action should not be stayed which being opposed by Mr.* Simpson, *on Behalf of the Defendant, the Court, after hearing Arguments on both Sides, ordered the Rule to be made absolute.*

(A)

SOUTH-CAROLINA.

I DO hereby certify that the above contains a true Extract of certain Proceedings had between *Thomas Powell*, Plaintiff, and Sir *Egerton Leigh*, Baronet, from the Records of the Court of Common-Pleas in the said Province. JAMES TRAIL, C. C. P.

But, if your Honour shall think proper to question these Proceedings charged to have been transacted by me in the Upper House of Assembly; then it will clearly appear, that as your Honour will not allow Privilege of Assembly to what is charged as my Proceedings in Assembly, that thereby you will in Effect declare, that these Proceedings were not transacted in Assembly; that, of Consequence His Majesty's Council do not form an Upper House of Assembly and a Branch of the Legislature; and that the Judgment in the Case Thomas Powell against Sir Egerton Leigh, is contrary to Law and Justice.

Thus, Sir, by your Judgment tacitly given, though clearly intelligible and of decisive Effect, finding myself *not intitled* to Privilege of Assembly; *I shall immediately and most readily enter into a Justification of my Conduct* to your Honour; and prove, that the Proceedings of his Majesty's Council, in the present Case conducted and matured under the Auspices of two Judges sent from England, not only demonstrate that these Judges are superficial in their Knowledge of Law, and criminally partial; which will lead me to demonstrate also, that the Liberties, Lives and Properties of his Majesty's Subjects in this Colony, are most dangerously hazarded before the present Bench of Judges, upon which are those who flagrantly violate the Law, even as laid down by themselves, in order to satisfy their Partialities * or Prejudices: but I shall undeniably point out, that the Proceedings of a Body stiling themselves the Upper House of Assembly, proclaim that they are ignorant of the Usage of Parliament; that their *State* of Accusation against me is palpably *inconsistent with Matter of Fact*; that it is full of Contradiction, disrespectful to your Honour, and therefore void of common Sense. In the mean Time, in order to notify in Form to your Honour, that the present Proceedings of his Majesty's Council are not to be understood as *nemine contradicente*, I beg Leave to refer you to the annexed Proceedings in the Upper House of Assembly on the 22d Instant; in which your Honour will see a Protest signed by ALL THE CAROLINIANS who at present act as Counsellors in this Colony.

Finally, May it please your Honour, I cannot finish this Representation without expressing the high Satisfaction I feel in being sensible, that the present Fate of this Dispute, must depend upon your Honour's Wisdom and Justice, independent of Advice from his Majesty's Council. The Secretary of the Province; the Chief-Justice; the Receiver General of the Quit-Rents; Mr. Justice Gregory and Mr. Superintendant of Indian Affairs, are my Accusers: the Protesting Members compose the other Part of the Council.——Whether your Honour shall determine the Question in the Affirmative or Negative; or refer the Question to be determined by the King, my Triumph over my Accusers will be equally conspicuous. In the first Case, the Address of Impeachment must remain a Monument of a foiled Undertaking upon a Violation of Law, *Judicum principe duce*:—in the next Case, I shall have the Honour of being *the Cause* of his Majesty's Council *understanding* that they are not an Upper-House of Assembly; and thereby of contributing in some Degree to compose the Minds of the People: and, in the third Case, my Accusers must be in some Degree mortified, to find they have rashly touched a Subject, upon which, Prudence will not allow the Tribunal to which they applied, to give Judgment: and, that they have unwarily furnished Materials, enabling me thus *to draw up a State* of their Absurdities and criminal Conduct, in their public Station, *which must be laid before their* ROYAL MASTER.

All which I do most humbly submit to your Honour's Wisdom. WILLIAM-HENRY DRAYTON.

February 27, 1775.

On His MAJESTY's Service.

To
The Honourable
WILLIAM-HENRY DRAYTON, Esq.

SIR, CHARLES-TOWN, *March* 1*st*, 1775.

BY Virtue of the Power with which His Majesty has been pleased to entrust me, I DO hereby suspend you from being a Member of His Majesty's Council for this Province, until his Majesty's Pleasure shall be known thereupon; and I shall take the earliest Opportunity of transmitting to the Lords Commissioners for Trade and Plantations, the Address and Papers relative thereto in order that they may be laid before His Majesty for his Royal Consideration. I am,

SIR,
Your most obedient humble Servant,
WILLIAM BULL.

From the Face of the above Proceedings, I rest confident, Fellow-Citizens, that so far will you be from imputing my Suspension to any Conduct in me deserving of your Disapprobation; that on the Contrary, you will hold the Application for the Suspension, as full Proof that I have been strenuously endeavouring to promote your Interests in Council. In short, I am become obnoxious to that Part of the Council, by whom, your Representatives on the 25th of March last did declare, "*a Step has been for many Years put to all Kinds of public Business in this Colony.*"

And, now that I have taken the Liberty to engage your Attention, allow me, yet to possess it for a few Minutes. Without presuming to aim at directing your Conduct, I only mean to lay some Materials before you in one View, which, from the Nature of them, are of high Importance to your future Interests, and must be of Information to a considerable Part of this Community.

At a Time when the Hearts of a People are loyally attached to their Sovereign, whom, partial to his Virtues, we look upon as the best of Princes: to be then groaning under Oppression, is truly affecting. It would be almost endless to particularize every Species of Oppression we feel.—With what Pleasure do we read the historic Encomiums we meet with upon Princes and Administrations, because they filled the Seats of Justice with Men of Knowledge and Ability; *Men worthy of the Station*;—as great an Encomium as a Prince or Minister can receive—as great a Blessing as a People can enjoy. But alas! behold a Seat of Justice!

"Fallen, fallen, fallen, fallen,
Fallen from its high Estate,"

And ——————————.

Shall I point out all the Steps downward to this low Estate? This Paper will not permit me. But I flatter myself a Time will come, when this Herculean Labour will be undertaken, and an Attempt be made, to cleanse the Augean Stable.—In the mean Time, allow me the Liberty to fix your Attention to this Object.—A Chief-Justice in the Year 1773 judicially declared to a Plaintiff, that he could not obtain any legal Redress for the Imprisonment of his Person, because it was done *by Proceedings*,

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* In the Admission of an Attorney, as one Instance only.

in the Upper House of Assembly, *which*, by the Law of this Land, *could not be impeached or questioned out* of that House. But now, in the Year 1773, you have also seen the same Chief-Justice, *impeach my Proceedings*, stated by himself to have been in the Upper-House, and cause them *to be questioned, out of that House!*—That the Law in one or other of these Cases has been violated *malo animo*; and the Right of the Subject criminally trampled upon, there needs no Argument to demonstrate, but to state the Facts so contrasted. It is striking; without Doubt, such a Conduct must recoil and strike with that Force, which alone can in any Degree satisfy the violated Majesty of the Law; and promise some Security to the Rights of the Subject.

There is yet an Object of a more important Nature; THE CONSTITUTION of this Country. An Object worthy of your quickest Attention, and most vigorous Proceedings, ere it shall be too late to fix a Barrier in Defence of it, against the Strides of Prerogative Dependents. His Majesty's Council—as they themselves have declared under their Hands, bound to obey the Royal Instructions, and now and for a Series of Years past actuated by the dictating Voices of Placemen, whose Affluence has been acquired, and whose Power, as well as that of the other Part of the Council, exist but by the Royal Pleasure signified by the Minister—claim to be an Upper House of Assembly and a Branch of the Legislature, arrogating to themselves all the consequential Privileges of Parliament! a Claim of the most alarming Nature to the People of this Country; a Claim solemly recognized by the King's Judges, in the Doing of which, the Chief-Justice *even gave Judgment in his own Cause*, not only as a Member of the Council, but as THE MAN who arbitrarily counselled that Commitment, which induced that Recognition! Allow me, Fellow Citizens, to attempt by a Chain of Authorities from our original Records, our Books of Law, and our Writers on Government, to demonstrate; that it is a Claim void of any Foundation, in our fundamental Constitutions; in our early Compact with the Lords Proprietors; in Precedent or legal Usage; in Statute Law, by Words express or by Implication; in the Nature of Parliaments, or the Mode of calling them; or in the Prohibition to the Governor not to pass any Law without the Advice and Consent of the Council. Nay, I will shew, that it is a Claim directly in Opposition to the Royal Sign Manual.

By the fundamental Constitutions of Carolina, sealed and signed by the Lords Proprietors Albemarle, Cornbury, Craven, J. Berkley, Ashley, G. Carteret, P. Colleton, on the first Day of *March* 1669, "to be perpetually established," and "unto which," the Lords say, "we do oblige ourselves, our Heirs and *Successors*, in the most binding Ways that can be devised;" and by the ninth Article of those Constitutions it is declared,

"There shall be just as many Landgraves as there are Counties, and twice as many Cassiques and no more. These shall be the hereditary Nobility of the Province, and by right of their dignity be Members of Parliament."

By the seventy-first article, it is declared

"There shall be a Parliament, consisting of the Proprietors or their Deputies, the Landgraves and Cassiques, and one Freeholder out of every Precinct, to be chosen by the Freeholders of the said Precinct respectively. They shall sit all together in one Room, and have every Member one Vote."

Thus, in Miniature, we see the Picture of the King, Lords and Commons in Parliament assembled at Westminster. Such was the great Outline of the original Plan of the Legislature of this Colony. A Plan binding upon the Lords Proprietors, and their *Successors*, and "to be perpetually established."

There were eight Proprietors, and each of them sent over a Deputy to act on his Behalf: one of these Deputies was appointed Governor by Commission. The first Governor was Colonel William Sayle; and his Commission dated the 26th of July 1669 was, in the Name of the Duke of Albemarle, the Earl of Clarendon, Earl of Craven, Lord Berkley, Lord Ashley, Sir George Carteret, Sir Peter Colleton and Sir William Berkley, directed to our trusty and well beloved Colonel William Sayle, Governor, &c. "*and to our trusty and well beloved our Counsellors and Assistants to our said Governor.*"—Upon the first Settlement of the Colony, the intended Constitution, could not be carried into Execution, for the Want of a proper Number of People. Hence, this Body of Representatives of the Lords of the Soil, filled by them, "the Governor and Council of Ashley River" promulged certain temporary Laws and Regulations occasionally sent over by the Proprietors. Thus Counsellors came to be concerned in giving Law to the People, and by the Advice of this Body, the Lords made, altered and amended Laws (as the Lords declared by an Instrument dated the 20th of June 1672) with Design only, "till by a sufficient Number of Inhabitants of all Degrees, the Government of Carolina," could "be administered according to the Form established in the fundamental Constitutions."

When the Circumstances of the Colony admitted of an Assembly of the People by their Representatives; they were summoned to meet in General Assembly. But there not being "a sufficient Number of Inhabitants of all Degrees," there being scarce any Landgraves and Cassiques, the fundamental Constitution could not be set up. On this Occasion, the Representatives of the People, applied to the Governor and Council to ask Advice, in what Manner they should proceed, and by what Authority the Laws should be enacted. In Consequence of which Message, the following Mode was agreed upon. "By his Excellency —— Palatine, and the Rest of the true and absolute Lords Proprietors of this Province, by and with the Advice and Consent of the Rest of the Members of the General Assembly." Here, see our early Compact with the Lords Proprietors; that until Government could be administered according to the Constitutions, the Legislature should consist of the *Lords of the Soil on the one Part; the Possessors of the Soil on the other Part.* Thus was the Legislature established, consisting only of TWO BRANCHES or Voices: and this, in as clear and concise a Form of Words, as Language could well arrange—The Palatine was represented by the Governor, the other seven Counsellors represented the other seven Proprietors. Such the Representation *of the true and absolute Lords—the Rest of the Members of the General Assembly*, consisted of the Representatives of the People. To give an Act the Force of Law, the Governor first signed & sealed it, saying, "in the Name of his Excellency —— Palatine, I ratify and confirm this Law;" each Counsellor, by the same Acts and form of Words, also signified the Consent of his Principal, for whom, like the Governor, he acted as Attorney.

Thus we see the present Claim of the Council to have one-third Voice in, or to be one-third Branch of, the Legislature, is so far from having any Foundation, in our fundamental Constitution, or in our early Compact with the Proprietors, that it is in direct Opposition to them, and by Consequence to the Rights of the People.

During the whole subsequent Time of the Proprietary Government, the Form of Legislature which I have described, continued without Variation; for the People, by the bad Conduct of the Proprietors, divided into internal Disputes, the Colony languished, and there were not "a sufficient Number of Inhabitants of all Degrees," to administer the Government upon the Plan of the fundamental Constitutions. At length, in the Year 1719, the People threw off the Authority of the Lords Proprietors, and conferred the Government upon Colonel James Moore, to administer it in the Name of the King.—In this State of Confusion, the Governor appointed a Council, to aid and assist him, as well as to endeavour, to hold out to the People an Appearance they had been accustomed to see, thereby to make the Change as little perceptible as possible. Besides these Ends, as the Men who now composed the Council, were leading Men in THIS REVOLUTION; and upon a Principle that People might be readily induced to obey Laws which they knew such Friends advised; thus, publicly to shew that these Friends did advise them, as well, that all active Men might equally participate in the Danger of this Struggle for Liberty; the Council, *now for the first Time*, in the Body of the Act, *signified their Advice and Consent* to the Law; and Laws were now "enacted by the Honourable James Moore, Esq; Governor, by and with the Advice and Consent of the Council and Representatives of the Inhabitants of the Settlement in South-Carolina."—No Person now signed the Law, but *the Governor*, acting as *the only Representative of the King*; and an Act intitled, "an Act for removing and preventing all Questions and Disputes concerning the Assembling and Sitting of this present Assembly of the Settlement in South-Carolina:" passed Dec. 23, 1719, affords the first Instance of the Governor's Privy Council, inserting their Name as Part of the Authority of a Law.

Thus, the Council, not as Representatives of the Lords of the Soil, not as Representatives of the King, nor as a Branch of the Legislature, but acting only as Privy Counsellors, *in high Confidence with the People*, being their Leaders in this Revolution, put their Name in the Law, to induce the more ready Obedience, and to give Weight to the Proceedings of the People.—But Fellow-Citizens, admit this Remark, and let it sink deep in your Minds. This Council was composed of the first Men in the Province, conspicuous for Family Connections, Influence, and Property. Their Personal Interests, and those of the Public, were the same: for their Fortunes could encrease, only by the Prosperity of the Colony. They were by no Means connected with the Crown but by their Loyalty; neither did their Authority proceed from, or depend upon the Crown.—How far different is this Council from the present Establishment! An Establishment chiefly composed of Strangers from England, Scotland, and Ireland leaving their Family Connections; without the least Influence here (I mean on the People); acquiring comfortable Situations in Life, but by the smiles of the Crown; put into the Council, but because of their Office; put into this Office, to give them Bread in this Country; and holding those Offices, and Seats in Council, but at the Pleasure of the Crown, the Minister, or the Governor.—And forsooth, we are to look upon such Men as Legislators!

In the Year 1721, the King assumed the Administration of the Province; and finding the People had constituted a Council to assist the Governor, the Crown continued them by Mandamus to continue during Pleasure. Here was a material Change: the former Establishment arose from the People in Effect; this from the Crown. The old Counsellors being thus continued, it was natural for them to continue their Stile in the Laws; and the People, happy to be under the Government of the King, and confiding in the Council whose Interests were the same as their own, without any Mark of Displeasure, saw a Continuance in the Innovation in the Stile of the Law. And thus, on the very first Day, that a Royal Governor assented to an Act of Assembly; we see the first Instance of the Stile, "Be it Enacted by his Excellency Francis Nicholson, Esq; Governor, by and with the Advice and Consent of of *His Majesty's Honourable Council*, and the Assembly of this Province."—The 18th of August 1721, is the Æra from which, the Council have been gradually arrogating to be an Upper House of Assembly; and such a Stile has continued to this Day, with but little Alteration in Words, and none in Sense, but that His Majesty's Council are no longer *termed* "Honourable," the Stile now being only "His Majesty's Council."

When the King assumed the Government in the Year 1721, a Question arises, Whether his Council by Mandamus, *then* became a Branch of the Legislature: and from this, another Question follows; *By what Law or Letters Patent they became so.* For it is plain, the Royal Council could not claim to be a Branch of the Legislature in Consequence of the Proprietary Council having been so: because the Royal Council do not represent the Lord of the Soil, as the Proprietary Council actually did. The Governor alone now representing the Lord, and of Course forming that Part of the Legislature, which the Governor and Council then actually *jointly represented and formed.* And this is to be laid down as indisputable, that as the Lords of the Soil alone possessed only one half of the Legislature, and the People the other, it is self-evident, that when the Crown assumed the Government, and purchased the Lordship of the Soil; the King could only acquire *that share* of the Legislature, which belonged to the Lords of the Soil from whom he purchased. Thus, if we say the Governor, as the only Representative of the Lord of the Soil, is one Branch of the Legislature, the Council, a second Branch, and the Assembly, a third Branch, it is evident the People have *now* but *one Share in three*, whereas in the Proprietary Time they had HALF *of the Whole.* And it ought to be made evident, by what Act, the People did *bona Fide* RELINQUISH a Part of their Right; and by what legal Authority, the Crown being in Possession, in the Person of the Governor, of *one* Branch of the Legislature, *all that was purchased*, did constitute the Council to be *another* Branch, which depending upon the Pleasure of the King, will therefore not be permitted to oppose those Measures which are promoted by his Administration.——But, omitting Arguments and viewing Facts, we see a Demonstration, that in Truth neither the Governor, nor the Council themselves, nor the People, consider the Council as a Branch of the Legislature. For, the Governor now, *alone* signifies the Consent of the Lord of the Soil; (*an Act, in the Time of the Lords, done by the Governor and Council jointly*) the Assembly also signify their Consent, by the Hand of their Speaker; and the Council stand by and appear as Cyphers, or at most as Privy Counsellors.

However, it may be said, the Council found their Claim upon the Conduct of Colonel Moore's Council, who introduced their Authority into the Laws. But this cannot possibly be a good Foundation, because the Constitution of the two Councils is absolutely different; the one arose from the People, the other from the Crown.—Neither can this Claim be maintained in Consequence of the first Royal Council having usurped their Authority in the Laws, and that their Successors have continued the Practice: first, because as they were not declared, a Branch of the Legislature, by their doing an Act, and exercising Powers, from which they meaned to assume such a Claim, could not devolve to their Successors, a Right to the same Claim: "for the Law will not suffer a Man to take Advantage of his own Wrong*;"—*a fortiori*, a body of Men, —even *Consent* cannot GIVE Jurisdiction to a Court that has *none*†: and secondly, My Lord Mansfield has declared, that "a Usage to grow into Law, ought to be a general Usage, *communiter usitata et approbata*, and which after a long Continuance it would be mischievous to overturn."‡—But, fellow Citizens, the Usage or Claim of the Council, is not *approbata*; you all exclaim against it: neither from its Nature or Duration would it "*be mischievous to overturn*" it: on the contrary, its Nature is so pregnant with Danger to us, that it is our Duty to overturn a Claim, *which cannot derive any legal Sanction from the Time it has continued*; for Mr. Justice Yates, and Mr. Justice Aston have declared, "that *no Degree of Antiquity* can give Sanction to a Usage bad in itself§." Suppose even if we should make their case much better than it is, and admit, that the Council *openly* and *declaredly made their Claim at their first Establishment*, and without *any questioning or even Murmur from the People, uninterruptedly exercised the Powers of a Branch of the Legislature*, and *uniformly enjoyed all the incidental Privileges of Parliament*, yet considering the abject Dependence of the Council, that a designing Minister *might* fill it or with Placemen who depended upon their Offices under the Crown for their daily Bread; fit Tools with which he might *barrass*, if not enslave a People; and let me remind you, that by the Operations of the present Establishment *your Country has not been improved as it might have been*, your public Creditors have been almost ruined, for the Council have not, for near Five Years past, allowed *any Law* to be laid before the Governor: *add to these the Imprisonment of the Subject* by their Authority; and say, whether an Usage capable of such dreadful Effects, is not "*a Usage bad in itself!*"

We have no Act of Assembly declaring, that the Council form an Upper House of Assembly and a Branch of the Legislature. But, it may be *justly* asked, are there not some Words in two or three Laws, from which such an Implication can be drawn, and therefore, that with constant apparent Usage of the Powers, they really are become a Branch?—Alas, our Judges have determined in the Affirmative in open Court; and in the doing of which, our *worthy* Chief Justice delivered an Opinion which he had drawn up and deposited *in juris Custodia* in his Pocket, before he heard one Word upon the Question!—One law in particular, mentions "an Ordinance of *both Houses.*" But, is it possible that from *any* Implication which can be deduced from such Words, and from "*a Usage bad in itself*," a whole People ought to be solemnly adjudged to have *lost an original Right of* possessing *one Half* of the Legislature, by fixing the Council as a Branch between the Crown and them! I say, *upon such Authority as Law*, can the Council be established a Branch of the Legislature? But again if this Authority of a *Branch*, I oppose this Authority *in Law.* —The Right of a People *cannot be lost by Implication*, they can be relinquished or taken away, only by a *bona fide* Transaction by them, clearly to that Purpose.—A Court, or Body of Men, shall not by Implication be divested of Rights and Privileges expressly vested in them by Law.—Hence it is self-evident, that a Body of Men cannot by Implication of an accidental Word, acquire Rights and Privileges of the most important Nature. Rights of such a Nature, that if it had been intended they should have possessed, *would have been expressly vested by Statute*; Rights of the utmost Importance to the Public; *Rights denied by the Voice of the People*, and which the Council could not possess, but upon a Violation of every Principle of the English Constitution, for "*Privilege of Parliament was principally established, in order to protect its Members, not only from being molested by their Fellow-subjects, but also* MORE ESPECIALLY *from being oppressed by the Power of the Crown*‖." And does the Privilege of Assembly, prevent a Member of Council from being called to Account by the Crown, to answer for his Conduct charged as in Assembly?——*In my Person, you see Proof positive to the Contrary.* Thus, upon the learned Mr. Justice Blackstone's Principle, and by recent Experience, it is plain, that a Body of Men, totally at the Mercy and Pleasure of the Crown, *are not capable of being protected by Privilege of Assembly*, which ever must be *incidental to a Branch of our Legislature.* Therefore it is evident, *the Council are not a Branch of the Legislature.*

But further: the Parliamentary Peerage being established, the Lords "compose one House; and when any Parliament is holden, EACH OF THEM is to have a Writ or Summons *ex debito Justitiæ*," at least forty Days before the Parliament begins**.—Now, the Council have no Writ of Summons when any Assembly is holden; but, as the King, by Writ calls together the component Parts of the Parliament; so the Governor, by only summoning the Representatives of the People, in like Manner clearly ascertains the component Parts of the Assembly: No Man can be a Member of the Parliament, or be a component Part of our Assembly, but in Consequence of A WRIT to that Purpose, from the King or Governor. As this is clear Law, so it is as clear, that the Council are not a component Part of our Assembly, and cannot by Authority of Law, claim to be a Branch of our Legislature.

Here I might safely rest my Argument. But to remove every Foundation, upon which the Claim of the Council is erected, I beg Leave to proceed in the salutary Work.

It is said, the Council must be a Branch of the Legislature, because the Governor cannot pass any Law without their Advice and Consent. I will state a Case, to which I will apply an Argument. The Lord Lieutenant of Ireland, cannot pass any Laws, *but with the Advice and Consent of the Privy Council* in London. Does this constitute the Privy Council, a Branch of the Legislature of Ireland and give them Privilege of Parliament, to protect them, while they are deliberating upon those Laws? No Man will be so weak as to answer in the Affirmative: and if the Claim of our Council is justly founded upon *the Necessity of their Advice and Consent*; why should not *the same Necessity*, produce *the same Effect* to the Council

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* 3 Black. 9. † 2 Burrow. 746.
‡ 3 Burrow. 1767. § 1 Blackstone. 184.
‖ 2 Bacon 369—571. ** 4 Inst. 2.

in London? But supposing, the Minister, with a Mandate, should dismiss all the present Councillors, *and nobody will deny* but *that the Supposition, is consistent with his Power*; and send over a proper Number *of Attornies Clerks, or Tide-Waiters* to fill up the Establishment:—because the Governor would in Public call these Fellows "Honourable Gentlemen," and could not pass any Laws without their Consent;—*could you look upon them* as a Branch of the Legislature?—Yet, according to the Nature of the present Establishment, it is evident, this Transformation may be wrought by the Prerogative.

But, that it may be notorious, that the Crown does not consider the Council, as a Branch of the Legislature, and therefore vested with parliamentary Privilege — see the King's Instruction under the Royal Sign Manual. The 35th Instruction tells the Governor, that "it is also our further Pleasure, that the Council have the like Power of framing Money-Bills, as the Assembly; and you are expressly enjoined not to allow *the said Assembly*, or any of the Members thereof, any Power or Privilege whatsoever, which is not allowed by Us to the House of Commons." The first Part of this Instruction is void in itself, because the King not having *any Power to frame Money-Bills*, he cannot of himself vest the Council with any such Power. But, however, the latter Part of it, is decisive against the Claim of the Council to be a Branch of the Legislature, and to enjoy the Powers and Privileges of Assembly. The King has in the clearest Manner directed, *to whom Privilege shall be allowed*. And had the King thought the Council entitled to *that Privilege* which is inseparable from a Branch of the Legislature, *equally with the Assembly*, as they certainly would be if they were a Branch; there is no Doubt but that they would not have been *overlooked* in that material Point, and Privilege would not have been granted to the Assembly *in clear Distinction from the Council*.

The great Locke makes this just Reflection upon the English History: "Prerogative was always largest in the Hands of our wisest and best Princes; because the People observing the whole Tendency of their Actions to be the Public Good, acquiesced in what they did, and without the least Complaint, let them enlarge the Prerogative as they pleased." Thus the Council, when the King assumed the Government, being filled up with Men of this Country, "the People observing the whole Tendency of their Actions to be the Public Good, acquiesced in what they did, and let them," as I may say, extend their Privilege as they pleased. Hence, these Men were treated by the Assembly with the most honourable Distinction in the Mode of their Correspondence, and in a fond Moment at two or three different Times, the Words "both Houses" slipped into a Law: from which Marks of the mutual Confidence and general Harmony among the People, an ungenerous Advantage has been taken, and unconstitutional Claim has been recognized by an arbitrary Violation of Law.

Mr. Locke prosecutes the Idea with this Observation, "that the Reigns of good Princes have always been most dangerous to the Liberties of the People. For, when their Successors, managing the Government with different Thoughts, would draw the Actions of those good Rulers into precedent, and make them the Standard of their Prerogative, as if what had been done, only for the Good of the People, was a Right in them to do, for the Harm of the People, if they so pleased; it has often occasioned Contest, and sometimes public Disorders before the People could *recover their original Right*," (which we here again see, is not to be lost *by Implication or Usage*) "and get that *to be declared* NOT TO BE PREROGATIVE, which *truly* NEVER WAS SO."——Thus the Conduct of the Counsellors, Men deeply interested in the Welfare of the Colony, and under no Influence from the Crown, *preferring the Prosperity of their Plantations, to their Seats in Council*, has in Effect become dangerous to the Liberties of the People. "For, when their Successors (Placemen and Strangers) managing the Government with different Thoughts, would draw the Actions of these good Rulers into Precedent;" and upon such a Foundation claim the Privileges of Assembly, public Disorders must again arise from such a Cause, and the People may have much Trouble *to recover their original Right*, and to get the Council *to be declared not to be entitled to Privilege of Assembly*, and not to be a Branch of the Legislature, when in Truth they "*never were so*."

Upon the whole, Fellow-Citizens, although our Judges have declared the Council, in the doing of which our *impartial* Chief-Justice gave Judgment in his own Cause, to be a Branch of the Legislature; yet there is no Principle of Law by which the Claim can be maintained.—For, we have seen that if the Council are one Branch, the Assembly are thereby reduced to only One-third Part of the Legislature which must be *a Violation* of their Compact with the Lords Proprietors, by which they possessed "*one half of it*. We have seen that there is not any Law, by which the Assembly have given up *any Part of this Right*. Neither can the Council take Advantage of their own Usurpation or Wrong; or the Right of a People be lost by Implication; for surely no Man will contend, they can be divested of that Right, or any Part of it, but by their own Consent *bona fide* given and obtained for that Purpose. We have seen, that the Claim of the Council, cannot be supported upon the Principle of Usage; for the Usage must be "*approbata*," which cannot be pretended in this Case; and if a Usage is "*bad in itself*," which in this Case it certainly is, "no Degree of Antiquity *can give it Sanction*." We have also seen, that the Council cannot claim Privilege upon the Principle which *especially* established Privilege of Parliament; that their Claim to be an Upper-House of Assembly is incompatible with *the Nature of the Title* to be in Parliament; and that the Necessity of their Advice and Consent to a Law before the Governor can pass it, which is by a Clause of the King's Commission directed to his Governor for *his* Conduct, cannot make the Council vegetate into a Branch of the Legislature, and vest them with the incidental Privileges of Parliament. In short we have also in the clearest Manner seen, that the King allows those Privileges to the Assembly *in Distinction* from the Council.

A few Years ago, the Honourable William Wragg, Esq; was suspended from being a Member of Council. The Principle seemed to be, *sic volo, sic jubeo—stat pro ratione voluntas*, for no other Cause of Suspension ever appeared to the Public. That Conduct gave a Shock to the Council, from which it has never recovered.——But for the Source from which my Suspension flowed.—An Address from "THE UPPER-HOUSE OF ASSEMBLY." as Although the general Tenor of Mr. Drayton's Conduct for a considerable Time past, would not only have justified, but seemed to call for a Representation from THIS HOUSE, to your Honour, yet, anxious to avoid every Measure which might appear to have a Tendency to infringe upon the Rights of an Individual, or the Privileges of A MEMBER, we have hitherto delayed;" but, "to be longer silent would be highly criminal." Hence, it undeniably appears, the Address is against Mr. Drayton A MEMBER of "THIS HOUSE," praying that he should no longer be in that Station. And if you will be pleased to refer to the Report, you will see the Facts upon which this Complaint is said to be founded; and which in my Representation I have compelled into four Articles entirely touching my Conduct stated as in the Upper House of Assembly. But here, *en passant*, I must make one Observation; that the fourth Article touching my Avowal of Freeman's Letter, *was not* A FACT *upon which the Complaint was founded*, as it is to be understood to be from the Face of the Governor's Demand, and the Report in Consequence of it: for, the Avowal was made, after the Address was moved for and concluded upon. The Chief Justice then took a Draught of the intended Address and Complaint out of his Pocket, saying, he came so prepared, as he had no Doubt but that the House would agree to the Motion; and this Address passed without the Addition or Alteration of one Word. So that it is plain, the Complaint which was penned and moved for, could not be founded upon a subsequent Fact.—I have assured myself of *this Fact*, by applying to the Memory of James Simpson, Esq; Attorney-General; and he *at once* agreed with me, that "*my Avowal was subsequent to the Motion for the Address*," *although the Council have the Confidence to give the Governor to understand, it was* ONE OF THE FACTS UPON WHICH *their Complaint was founded*.—But, to return to my Argument, I say, the Address and Report gave Birth to my Representation, which was immediately followed by a Suspension, alluding to "the Address and Papers relative thereto." These Facts demonstrate, that my Conduct, charged, as in the Upper House of Assembly, drew down my Suspension. And an Establishment, in which there is *no Liberty of Voice or Conduct*, and *to which, no Privilege of Assembly is allowed*; is that to be looked upon as *a branch of the Legislature*?—God forbid! Can that establishment be considered as such, without forgetting what are the essentials of a branch of Legislature, and hoodwinking common sense? It is impossible!—In short, the Upper-House charge me with endeavouring to destroy all confidence of the People in them, and to bring them into contempt. But when we see them going to the Governor with complaints, and tell him that they have ingloriously "submitted to many insults and indignities" which they "humbly request" *he will punish, altho' "they are Subjects of which" "the House alone is competent to judge*;" do not we see the Charge against me, recoils upon themselves, not only in the strongest, but in the most ridiculous Manner! For, we cannot but have an Idea of School Boys, who, in Schools are called *Tell-Tales*, going whimpering to the Master, with a Complaint, that such a one *called them names and won't let 'em alone!*——Public confidence never attends Public marks of Ignorance and a want of mental Ability; the natural and constant Companion, ever was and will be, *Public contempt*.

FELLOW CITIZENS!—As I have from undeniable authorities, marked the principal Flights and Landing Places, you may very well conceive the rising and intermediate Steps, of the Stair-Case, by which the Council have clambered, or rather unobserved have *slipt* up to their unconstitutional claim of being an Upper-House of Assembly and a Branch of the Legislature.—A Claim which already has scourged you with imprisonment: A Claim which threatens your Posterity with Slavery.

The famous Locke, was a great Philosopher—a discerning Politician—a just Reasoner—A ZEALOUS FRIEND TO LIBERTY! allow me to leave his last reflection fresh in your Memory.—"It has often occasioned contest, and sometimes Public disorders, before the People could recover their original Right, and *get That to be declared not to be Prerogative*, which truly *never was so*." And remember, a cluster of our most celebrated Law Writers have laid down as an established maxim, that "A PERNICIOUS CUSTOM OUGHT TO BE ABOLISHED."*

FELLOW CITIZENS!
With the most profound respect, I have
the Honour to subscribe myself,
YOUR most obedient and devoted Servant.
WILLIAM-HENRY DRAYTON.

Charles-Town, March 3, 1774.

* Litt. §. 212.—4 Inst. 274.—1 Black. 76.

CHARLES-TOWN, MARCH 6.

IN Conformity to the Resolution of the *Provincial Congress*, no Lamb or Mutton has appeared in our Markets, or otherwise been killed for Sale, since the 1st Instant.

The Ship Happy Janet, Capt. Petricrew, of and from Dunbar, which arrived here on the 11th ult. laden with Coals and Potatoes, consigned to the Master (altho' leaky) put to Sea again on Tuesday last the 28th; without having sold or landed any Part of the Cargo; which could not be received here, in Consequence of the *Continental Association*.

On Saturday last his Honour the Lieutenant-Governor was pleased to give His Assent, to

An Act to prevent the counterfeiting the Paper Money of other Colonies. And,

An Act to revive and continue, from the Terms therein limited, several Acts and Clauses of Acts of the General Assembly of this Colony.

The Act, commonly called, The GENERAL DUTY ACT, is one among those that are revived; except the Clause imposing a Duty upon *Lumber, Pitch, Tar, Turpentine, Beef, Pork, Staves, Shingles, Deerskins*, &c. imported from the other Colonies; which has, for many Years past, been looked upon as a very great Grievance: And those Commodities may now be imported till the 4th Day of March 1776, Duty free.

The same Day a Memorial, from the Hon. William-Henry Drayton, was presented to the Hon. the Commons House of Assembly, laying before them the Papers and Proceedings, relative to his Suspension from being a Member of the Council, until his Majesty's Pleasure should be known thereupon: Which Memorial and Papers were immediately read, and referred to the Committee of Grievances; to which, upon this Occasion, several respectable Names were added.

The same Day the House adjourned, with Leave, to Thursday the 20th of April next.

The whole Cargo of the Ship Charming Sally, from Bristol, except 14 Pieces of Sail-Duck (which are to be carried back) having been thrown into 7-Fathom Water in Hog-Island Creek, the said Ship came up to Town again last Saturday Evening, in order to load for her Return.

The same Evening arrived, in the Rebellion-Road, the Ship Katherine, of Bristol, Capt. Fraser, with 300 Slaves from Angola, to the Address of Mr. John Neutville, (the worthy Merchant who owns, and to whom the Cargo of the Ship Charming Sally above-mentioned was consigned): which, as soon as she can be supplied with Provisions and Water for another Voyage, (having Provisions for only 4 Days when she came in) is to proceed for the West-Indies, with the Whole of her Cargo.

Quantity of Rice exported, 74,066 Tierces.—Current Price, 50*s.* the Hundred Pounds Weight.

Timothy's Marine List.

	Arrivals at Charles-Town,	From
Feb. 28*th.*	Ship Glasgow, Robert Craig,	New-York
March 1*st.*	Ship Charming Sally, John Rowe,	Grenada
	Brigt. Yorick, Elijah Steel,	Falmouth
	Scooner Sally, Anthony Hooper,	Grenada
	Scooner John, Elias Howell,	North Carolina
	Sloop Mary, Benjamin Bee,	St. Eustatius
3*d.*	Ship Morris, Thomas Bell,	St. Thomas
	Sloop St. George, Samuel Mills,	Bermuda
4*th.*	Sloop Jenny, Daniel Badger,	North-Carolina
4*th.*	Ship Katharine, James Fraser,	Angola
	Ship Charming Nelly, John Walker,	Dublin
	Sloop Live-Oak, John Mitchell,	(*Put back*)
	Sloop Two-Brothers, John Larchar,	Hispaniola
5*th.*	Brigt. Welcome, Wm. Murphy,	Plymouth, *N. E.*
	Brigt. Rising-Sun, Malachy Salter,	Bermuda
	Scooner Little Dick, Robt. Harrison,	St. Martin

	Sailed.	For
Feb. 28*th.*	Ship Happy Janet, Andrew Petticrew,	
	Scooner Industry, Yelverton Fowkes,	N. Carolina
March 1*st.*	Brigt. Molly, Tho. Archdeacon,	Cadiz
	Brigt. Guarda-Mor, Andrew Notton,	Lisbon
	Brigt. Venus, Patrick Barry,	Philadelphia
	Brigt. Rebecca, Joseph Vesey,	St. Croix
	Sloop Live-Oak, John Mitchell,	North-Carolina
3*d.*	Scooner Cha. T. & Sav. Pac. J. Turner,	Georgia
	Scooner Sunbury Packet, Jer. Dickinson,	Georgia

New Advertisements.

MRS. LESSLEY presents her respectful Compliments to the LADIES and GENTLEMEN, acquainting them, That through their kind Invitation and Advice, she intends again opening her BOARDING, and DAY BOARDING SCHOOL, for young LADIES, in a very pleasant and airy Situation, upon the Green, next Door to *Robert Philp*, Esq; after the *Easter Holidays*, or sooner, should any young Ladies be losing their schooling.

N. B. Mr. LESSLEY continues to teach DRAWING and PAINTING, as usual.

Mrs. LESSLEY, has a young Lady from England, who talks French, has lived in a Boarding School there, and is every way qualified as an Assistant.

Wragg's Wharf & Stores,

Are now occupied by the Subscriber,

WHO will, by Care and Punctuality, endeavour to evince his Gratitude to such of his Friends, as may encourage his Undertaking; he proposes selling ON COMMISSION, RICE, LUMBER, WOOD, &c.—Carts and constant Attendance may be depended upon. JOHN POAUG.

Charles-Town, March 4, 1774

AS no Notice has been taken of the late Advertisement of MOTTET & SAVAGE: This is to give Notice, That if all those concerned do not, before the twenty-fifth Day of *March* current, settle to their Satisfaction, by giving Notes, and Security if required, they will request the Concurrence of the Committee to put their Accounts, Notes or Bonds in Suit. They have the best compleated PHARMACY, which they will dispose of by private Contract: But in Case it should not be sold by the 1st of *June* next, they will that Day sell Article by Article.

LEWIS MOTTET.
RICHARD SAVAGE.

To be SOLD,

On WEDNESDAY *the* 29*th Instant,*
(*If a fair Day*)

If not, the first fair Day thereafter, at the Plantation on Togudoo, *where the late* Mr. Joseph Wilkinson *deceased, lived,*

All the Personal Estate of the said Deceased,
CONSISTING OF

Near Forty valuable SLAVES,

AMONG WHOM ARE,

ONE jobbing Carpenter, a Seamstress, and a very handy Waiting Boy, who is likewise a tolerable good Barber.—The Remainder are chiefly grown up and are good Field Slaves. At the same Time will be SOLD,

The Houshold Furniture, viz.

Beds, Bedsteads, Pavilions, Sheeting and Tabling Linen, Chairs, Tables, Looking Glasses; Silver Table and Tea Spoons, entirely new; Queens and other Table Ware and a Set of neat Tea China; a genteel Chaise with Harness complete, almost new; two very good Chair Horses, a neat Riding Horse, and other Horses and Mares fit for Plantation Use, about sixty or seventy Head of tame Cattle, a Stock of Hogs, and about three or four Hundred Bushels of Corn. For thirty of the Negroes two Years Credit will be given, and for the Remainder with the Furniture, Stock, &c. &c. Twelve Months Credit will be allowed for all Sums above One Hundred Pounds; the Purchasers to give personal Security, and to pay the Interest anually. Those to whom the Estate is indebted, are desired to send in attested Accounts, and those indebted thereto are requested to make Payment.

MORTON WILKINSON, *Administrator.*

MARCH 6, 1775.

To be SOLD,

Five NEGRO COOPERS,

Allowed to be as good as any in the Province. Enquire of JOHN BLAIKIE.